

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA no. 748 of 2016 (O&M)

Date of Decision :06.05.2016

Rajesh Kumar and others

....Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

HON'BLE MRS JUSTICE LISA GILL

- 1)Whether reporters of local newspapers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

Present : Mr. Arun Yadav, Advocate for the appellants

MAHESH GROVER, J.

This appeal is directed against the judgment of the learned Single Judge dated 7.4.2016. The appellants claim to have been appointed by respondent no.4 as fireman/driver at DC rates on contractual basis which arrangement was extended from time to time. It is urged before us that the official respondents are now likely to replace their services by another set of contractual employees which is impermissible.

Learned Single Judge noticed that the official respondents have decided to resort to the outsourcing policy to meet their needs in which regard tenders have been floated.

Learned Single Judge noticed that the service engagement of the appellants was purely contractual and under an outsourcing policy and declined

interference.

It has been contended by the learned counsel for the appellants that the appellants were engaged contractually by respondent no.4 and were being paid as per the DC rates. Consequently, they ought to be construed as employees under respondent no.4 and an attempt made by the said respondent to replace their services by another set of contractual employees should be deprecated and the appellants granted indulgence to continue with the arrangement till regular persons are employed.

We notice from the record of the proceedings that respondent no.4 took a categorical stand that services of the appellants as also some other writ petitioners who are not the appellants before us were engaged through an outsourcing policy pursuant to which tenders were floated and awarded to one Baba Bandev Enterprise and names of persons forwarded by this agency were taken in employment. Even though this categorical stand was taken, the appellants made no attempt to implead Baba Bandev Enterprise as a party respondent which was imperative considering that the appellants refuses to acknowledge their engagement with the official respondents through it. As a result of this lapse this Court has been deprived of valuable information which could have gone a long way to test the case of the appellants.

In the reply before the writ Court the official respondents also stated that there was no sanctioned posts of driver and fireman and it is on account of

this that outsourcing had to be resorted to.

After hearing learned counsel for the appellants and perusing the material on record, we are of the view that the appellants have miserably failed to establish their direct employment under respondent no.4. No appointment letter or any material in this regard has been placed on record. In the absence of service provider we thus cannot conclude with certainty the nature of service arrangement of the appellants with respondent no.4 or with the service provider. The service agreement is also on record and it fastens the entire liability of making the payment of engaged employees upon service provider indicating correctness of the respondents' stand.

The principle of law that a contractual employee service arrangement would come to an end on the expiry of the contract as approvingly held by the learned Single Judge cannot be faulted with, particularly, in the absence of aforesaid material. We, therefore, decline to interfere but before parting leave it open to the respondents authorities to sympathetically consider the case of the appellants in case some employments in this regard on contractual basis are made.

Hence, dismissed.

(Mahesh Grover)
Judge

(Lisa Gill)
Judge

06.05.2016